

Docket No.: NHL-HOL-66
Serial No.: 10/786,256
Customer No. 00432

REMARKS

The Office Action dated December 6, 2005, has been reviewed in detail and the application has been amended in the sincere effort to place the same in condition for allowance. Reconsideration of the application and allowance in its amended form are requested based on the following remarks.

Applicant retains the right to pursue broader claims under 35 U.S.C. §120.

Applicant has provided a unique solution with respect to problems regarding A BEVERAGE BOTTLING PLANT FOR FILLING BOTTLES WITH A LIQUID BEVERAGE FILLING MATERIAL, AND A CONTAINER FILLING LIFTING DEVICE FOR PRESSING CONTAINERS TO CONTAINER FILLING MACHINES. Applicant's solution is now claimed in a manner that satisfies the requirements of 35 U.S.C. §102.

Allowable Subject Matter:

Acknowledgment is made of the allowability of Claims 1-12 and 17-20. However, it is believed that the broader coverage of Claims 13-16 is available for the reasons set forth herein.

Rejection of Claims 13-16 Under 35 U.S.C. §102:

Claims 13-16 were rejected under 35 U.S.C. §102, as being

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unpatentable over Owen et al. (U.S. Patent 5,195,565). Specifically, the Examiner stated:

In regard to claim 13, absent further defining structure, the Owen et al. reference discloses a "container lifting apparatus" (Figures 1 and 2) comprising a pressure medium receiving "chamber" 72 and a "stop structure" 12, as claimed.

Owen, as understood, shows a lifter system for lifting containers into a position for "bottom-up" filling. In this system, a container 38 is lifted into a position such that a filler nozzle 40 is inside the container 38 and fills the container 38 starting at the bottom of the container 38. As the container 38 is filled, the lifter system moves the filler nozzle 40 and the container 38 away from one another, such as by lowering the container 38, at a rate commensurate with the flow rate of the liquid. For the raising and lowering of the container 38, a lift arm 12 connects a plurality of cams 46, 48, 50, 52, and 54 to rods 24, 26, which rods 24, 26 engage and move the container 38.

The plurality of cams permit variable stroke lengths for lifting different size containers. In order to change the length of stroke, a cam follower 60, which is mounted on the lift arm 12, can be moved to from engagement with one cam to engagement with a different cam. An air cylinder 72 is connected to the lift arm 12, which air

cylinder 72, upon retraction, holds the cam follower 60 against a respective cam while the cam is being rotated, which rotation of the cam serves to move the lift arm 12 up and down, and thus the container 38. The air cylinder 72, upon extension, "serves to hold the cam follower 60 away from the respective cams for realignment via the slide arm 58 with a different cam" (Owen, col. 3, lines 21-23). The air cylinder 72 serves only to bring the cam follower 60 into and out of engagement with the cams. Therefore, the cams, not the air cylinder 72, control the length of the lifting stroke and thus the height to which the container 38 is raised.

Amended Claim 13 recites:

A container filling plant container lifting apparatus configured to raise and to lower a container support and a container supported thereby in a container filling machine having a plurality of filling elements, said lifting apparatus comprising:

a chamber being configured to receive a first pressure of a pressure medium to raise said container support and a container supported thereby to a first level, and being configured to receive a second pressure of the pressure medium to raise said container support and a container supported thereby to a second level;

said first pressure being different from said second pressure, and said first level being different from said second level; and

a stop structure being configured to permit a plurality of different stroke lengths of said lifting apparatus depending upon the pressure exerted by the pressure medium in said chamber to raise said container support and a container supported by said container support, adjacent a filling element, to at least

two predetermined levels.

In contrast to Owen, Claim 13 recites "a chamber being configured to receive a first pressure of a pressure medium to raise said container support and a container supported thereby to a first level, and being configured to receive a second pressure of the pressure medium to raise said container support and a container supported thereby to a second level" and "said first pressure being different from said second pressure, and said first level being different from said second level." In the Office Action, the Examiner equates the chamber of Claim 13 with the air cylinder 72 of Owen. Owen, as understood, does not teach or suggest that the air cylinder 72 receives two different pressures. Further, Owen does not teach or suggest that the air cylinder 72 receives two different pressures to raise the container 38 to two different levels. As discussed above, the air cylinder 72 only serves to bring the cam follower 60 into and out of engagement with a particular cam. The cams control the position of the container 38 as the cams are the structures that define the stroke lengths. It is therefore respectfully submitted that Owen does not anticipate nor render obvious Claim 13.

In addition, new Claim 21, which depends directly from Claim 13, recites:

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said chamber is configured to receive the first pressure of the pressure medium to raise said container support and a container supported thereby to said first level to dispose a mouth of the container a distance from a filling element for a counterpressure-free, free jet filling of the container; and

said chamber is configured to receive the second pressure of the pressure medium to raise said container support and a container supported thereby to said second level to dispose a mouth of the container in sealed contact with a filling element for a counterpressure filling of the container.

Owen, as understood, only teaches one type of filling, specifically "bottom-up" filling in which the filler nozzle 40 is placed inside the container 38 and slowly removed therefrom during filling. Owen clearly does not teach positioning the container 38 for two different types of filling processes. Owen further does not teach or suggest disposing "a mouth of the container in sealed contact with a filling element for a counterpressure filling of the container." It is therefore respectfully submitted that Claim 21 distinguishes over and is not rendered obvious by Owen.

Claims 14-16 and 18-20 are also believed to distinguish over Owen based on their dependence from both Claims 13 and 21, and for the distinguishing features claimed therein. Claim 17 has been canceled herein, without prejudice.

In view of the above, reconsideration and withdrawal of the present rejection is respectfully requested.